IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 36525 of 1998

Between:

B.Ramender Reddy, S/o. Dr. Pulla Reddy,
R/o. 6-3-864, Sadat Manzil,
Ameerpet, Hyderabad-16.

..... PETITIONER

AND

Accounts Officer (INV) , O/o. Area Manager (Central),
Department of Telecommunications, Suryalok Complex, Gunfoundry,
Hyderabad-1.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly a Writ in the nature of Mandamus declaring the letter bearing No. INV(C)/Def/232761/C dated 10-12-1998 issued by the Respondent herein as illegal and arbitrary.

Counsel for the Petitioner: MR.A.RAVI SHANKAR

Counsel for the Respondent: MR.RAMAKRISHNA RAO SIDDANATHI (SC FOR CG)

The Court made the following :

ORDER:

The petitioner filed this writ petition questioning the action of the respondent in issuing the impugned letter bearing No.INV(C)/Def/ 232761/C, dated 10-12-1998 demanding him to pay an amount of Rs.93,233/- by 26-12-1998 towards the dues in respect of closed telephone No.232761, or else his working telephone bearing No.3312751 will be disconnected.

The petitioner states that telephone bearing No.232761 which was disconnected on 07-06-1995 for non-payment of bill amount during the period from 10-4-1995 to 07-8-1995, belongs to M/s. JAY AAR travels, a partnership firm (for short "the firm"), in which he was one of the partners. It is his case that he is no way concerned with the closed telephone, as he retired from the partnership on 05-09-1994 and therefore, he is not responsible to pay the amount demanded in the impugned letter. Assailing the action of the respondent in demanding him to pay the amount claimed in the impugned letter, the petitioner filed this writ petition.

A counter-affidavit is filed on behalf of the respondent stating that the telephone bearing No.232761 was provided on 26-11-1994 in the name of M/s. Jay Aar Travels on third party transfer from M/s. Fortune Computers and the petitioner is one of the partners thereof. It is stated that the application of the firm on 10-3-1995 for shifting of the telephone was not acceded to, since the firm did not pay the bills, and by 26-12-1998 the firm was due an amount of Rs.93,233/- to the department. It is stated that the petitioner did not intimate to the respondent about his retirement from

the firm. It is stated that as per the undertaking cum indemnity bond given at the time of applying for the third party transfer of the telephone, all the partners are liable to pay the outstanding dues in their individual capacity in case of default by the partnership firm. Therefore, the petitioner is liable to pay the demanded amount.

Heard the leaned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

In view of the interim direction of this Court in W.P.M.P. No.45035 of 1998, dated 31-12-1998, the residential telephone of the petitioner is not disconnected.

Whether the petitioner is responsible to pay the demanded amount in respect of the firm's telephone when he is no more a partner of the firm, and whether non-intimation of the petitioner's retirement from the firm to the department entitles the respondent to recover the demanded amount from the petitioner personally, and whether as per the alleged undertaking cum indemnity bond the petitioner is personally liable to pay the demanded amount, are all disputed questions of fact, which cannot be gone into by this Court under Article 226 of the Constitution of India, and the remedy of the petitioner, if any, is to approach the competent civil court and get his claims adjudicated.

In that view of the matter, the writ petition has no merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J

Date: 13-4-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Accounts Officer (INV), O/o. Area Manager (Central),
   Department of Telecommunications, Suryalok Complex, Gunfoundry,
   Hyderabad-1.

2. Two CD copies

*Form-NIC-OGS/WP{**KKG**}*